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Prosecution at Trial of 2 Emigrés Ends Its Questioning of Ex-Agent

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LOS ANGELES, June 17 — The prosecution ended five days of questioning of Richard W. Miller on Monday without directly asking the former agent of the Federal Bureau of Investigation whether he had ever passed classified documents to two Soviet émigrés.

Mr. Miller has been testifying in the trial of the émigrés, who are accused of conspiring with him to commit espionage.

The retreat by the Government, which had previously indicated an intention to question Mr. Miller on the matter, handed the couple's lawyers a victory they had fought hard for, mostly in closed meetings with the judge.

Federal District Judge David V. Kenyon said the prosecutors had indicated that they did not intend to question Mr. Miller about passing classified information, unless the lawyers defending the couple, Svetlana and Nikolay Ogorodnikov, raised the issue in cross examination.

Mr. Miller is the first F.B.I. agent to be accused of spying. The Government contends that the Ogorodnikovs recruited him for espionage. He has defended his activities, contending he was trying to recruit Mrs. Ogorodnikov as a double agent and make himself a hero at the F.B.I.

Possibility of Reversal Cited

Brad D. Brian, one of Mrs. Ogorodnikov's lawyers, told Judge Kenyon last week, after the judge said he would permit the Government to ask Mr. Miller if he had passed documents, that Mrs. Ogorodnikov could not get a fair trial if that happened. Judge Kenyon said he would make a formal ruling on that line of questioning later.

The prosecutors had no comment on the reasons behind their move.

The issue of whether Mr. Miller would be questioned about passing documents became important to the Ogorodnikovs' trial because the Government earlier this year dropped charges of receiving secret documents against the couple, leaving them charged only with conspiracy to commit espionage.

Miller Denied Passing Documents

The Government dropped the charges after Mr. Miller, in pretrial testimony in February, denied his earlier statements that he had passed documents to the Ogorodnikovs, asserting that he had made improper admissions under duress while being interrogated by the F.B.I.

Mrs. Ogorodnikov's lawyers later contended that the Government had no proof other than Mr. Miller's statements that any documents were passed.

Mr. Miller, however, is still charged with passing classified documents. Prosecutors have tried to discredit his denials in the five days he has been on the witness stand.

Under questioning today, Mr. Miller testified that Mrs. Ogorodnikov had asked him whether he would provide classified documents to the Soviet Union. But he said he did not report the solicitation because "I was certain I'd lose my job."

But Mr. Miller said that by Aug. 26, when he drove Mrs. Ogorodnikov back to Los Angeles after she had met with Soviet consular officials in San Francisco, he knew any recruitment plan was "dead."

Instead, he testified, he realized then that he was the target of a serious recruitment effort by Mrs. Ogorodnikov.

Mr. Miller at first denied even discussing the passing of documents. "We never discussed passing classified documents," he testified. He later conceded, however, that Mrs. Ogorodnikov had asked him about furnishing "things she wanted, or her country wanted," which she referred to as "paper." Mr. Miller said he understood the term to refer to classified documents.